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DEPARTMENT OF EDUCATION

34 CFR Chapter III

[Docket ID ED-2014-OSERS-0018]

Final Priority; National Institute on Disability and  
Rehabilitation Research--Rehabilitation Engineering  
Research Centers

[CFDA Number: 84.133E-4.]

AGENCY: Office of Special Education and Rehabilitative  
Services, Department of Education.

ACTION: Final priority.

SUMMARY: The Assistant Secretary for Special Education and  
Rehabilitative Services announces a priority under the  
Disability and Rehabilitation Research Projects and Centers  
Program administered by the National Institute on  
Disability and Rehabilitation Research (NIDRR).

Specifically, we announce a priority for a Rehabilitation  
Engineering Research Center (RERC) on Improving the  
Accessibility, Usability, and Performance of Technology for  
Individuals who are Deaf or Hard of Hearing. The Assistant  
Secretary may use this priority for competitions in fiscal  
year (FY) 2014 and later years. We take this action to

focus research attention on an area of national need. We intend the priority to contribute to improving the accessibility, usability, and performance of technology for individuals who are deaf or hard of hearing.

EFFECTIVE DATE: This priority is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Patricia Barrett, U.S. Department of Education, 400 Maryland Avenue, SW., room 5142, Potomac Center Plaza (PCP), Washington, DC 20202-2700. Telephone: (202) 245-6211 or by email: [patricia.barrett@ed.gov](mailto:patricia.barrett@ed.gov).

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

Purpose of Program: The purpose of the Disability and Rehabilitation Research Projects and Centers Program is to plan and conduct research, demonstration projects, training, and related activities, including international activities, to develop methods, procedures, and rehabilitation technology that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially

individuals with the most severe disabilities. The program is also intended to improve the effectiveness of services authorized under the Rehabilitation Act of 1973, as amended (Rehabilitation Act).

#### Rehabilitation Engineering Research Centers

The purpose of NIDRR's RERCs program, which is funded through the Disability and Rehabilitation Research Projects and Centers Program, is to improve the effectiveness of services authorized under the Rehabilitation Act. It does so by conducting advanced engineering research, developing and evaluating innovative technologies, facilitating service delivery system changes, stimulating the production and distribution of new technologies and equipment in the private sector, and providing training opportunities. RERCs seek to solve rehabilitation problems and remove environmental barriers to improvements in employment, community living and participation, and health and function outcomes of individuals with disabilities.

The general requirements for RERCs are set out in subpart D of 34 CFR part 350 (What Rehabilitation Engineering Research Centers Does the Secretary Assist?).

Additional information on the RERCs program can be found at:

<http://www2.ed.gov/programs/rerc/index.html#types>.

Program Authority: 29 U.S.C. 762(g) and 764(b)(3).

Applicable Program Regulations: 34 CFR part 350.

We published a notice of proposed priority for this program in the Federal Register on April 16, 2014 (79 FR 21418). That notice contained background information and our reasons for proposing the particular priority.

There are differences between the proposed priority and this final priority as discussed in the Analysis of Comments and Changes section of this notice.

Public Comment: In response to our invitation in the notice of proposed priority, four parties submitted comments on the proposed priority.

Analysis of Comments and Changes: An analysis of the comments and of any changes in the priority since publication of the NPP follows.

Comment: One commenter observed that NIDRR RERC priorities have typically included a requirement that RERCs develop and implement a plan to ensure that technologies developed by the RERC are made available to the public. This commenter suggested that this requirement should be included in the priority.

Discussion: We agree that this requirement would help ensure that technologies resulting from research and

development conducted by the RERC would be made available to the public.

Changes: New paragraph (e) has been added to the priority requiring the RERC to develop and implement a plan for transferring technologies developed by the RERC to the public.

Comment: One commenter recommended specific changes to paragraph (a) of the priority, which focuses on improving technological and design features to maximize the adoption and use of auditory devices. This commenter suggested that the RERC should focus its research and development activities on open fit hearing aids, as well as other technological and design features that improve individuals' ability to hear in noisy environments.

Discussion: We agree that research on open fit hearing aids and design features that improve individuals' ability to hear in noisy environments are important areas to consider for research and development. Nothing in the priority prohibits an applicant from proposing to focus on one or both of these topics. We do not, however, want to limit applicants' ability to focus on other approaches by requiring a focus on these specific topics. The peer review process will determine the merits of each proposal.

Changes: None

Comment: One commenter suggested that affordability is a critical factor in determining rates of adoption and use of auditory enhancement devices. The commenter recommended that NIDRR specifically require, in paragraph (a) of the priority, a focus on affordability when addressing factors that promote adoption and use.

Discussion: We agree that affordability is important to consider when seeking to maximize the adoption and use of auditory enhancement devices.

Changes: We have revised paragraph (a) of the priority to include affordability in the list of examples.

Comment: One commenter supported the emphasis on improving the compatibility of auditory enhancement technologies with other technologies in paragraph (b) of the proposed priority. The commenter recommended that we require the RERC to, among other things, improve: (1) listening systems for use in large meeting rooms such as theaters, movies, and places of worship; (2) technologies that improve signal-to-noise ratio; (3) technologies that use open source wireless connectivity; (4) wide-band audio technologies to increase the intelligibility of cell phone signals; (5) induction loop systems; (6) telecoil positioning; and (7) conference call technology.

Discussion: We agree that these are important areas to consider for research and development. Nothing in the priority prohibits an applicant from proposing to focus on one or more of these topics. We do not, however, want to limit applicants' ability to focus on other auditory enhancement technologies by requiring a focus on any specifically named technology. The peer review process will determine the merits of each proposal.

Changes: None.

Comment: One commenter suggested that we revise paragraph (b) to include research and development on interoperability, and not just compatibility, of auditory enhancement technologies.

Discussion: We agree that interoperability is an important concept to consider for this requirement. However, we believe that the requirement that there be compatibility supports this concept. Nothing in the priority prohibits an applicant from addressing interoperability in its proposed approach.

Changes: None.

Comment: Two commenters supported the emphasis on improving the performance of auditory enhancement devices and other access-promoting technology in social environments in paragraph (c) of the proposed priority.

One commenter recommended that the RERC focus its research and development activities on: (1) universal platforms for connectivity to assistive listening devices; (2) smart phones/tablets/computers that work with hearing aids as assistive listening devices; (3) interactive variable message signs; and (4) speech-to-text methodologies. The other commenter suggested that the RERC focus on improving access through design of the architectural environment, for example, acoustics, lighting, and control of ambient noise and vibrations.

Discussion: We agree that these are important areas to consider for research and development. Nothing in the priority prohibits an applicant from proposing to focus on one or more of these topics. We do not, however, want to limit applicants' ability to focus on other potential solutions by requiring applicants to focus on a specific approach. The peer review process will determine the merits of each proposal.

Changes: None.

Comment: One commenter recommended that the environments named in paragraphs (c) and (d) of the priority be expanded to include "health care environments," because of the importance of the interaction between health care service providers and individuals who are deaf and hard-of-hearing.



Discussion: We agree that the interaction between health care service providers and individuals who are deaf and hard-of-hearing is important to these individuals, and we believe that this addition would be helpful in addressing the broad needs of individuals who are the focus of the RERC.

Changes: We have added health care environments to the examples of environments that are in paragraphs (c) and (d).

Comment: Two commenters supported the emphasis on enhancing aural rehabilitation and consumer involvement strategies in paragraph (d) of the proposed priority, but suggested that the requirements in paragraph (d) focus more on training. Specifically, one of these commenters recommended that paragraph (d) require the RERC to focus on: (1) hearing assistive technology trainings; (2) online training and webinars; (3) focus groups, surveys, and consumer beta testing and review of products; and (4) encouraging young people with hearing loss to pursue careers in engineering.

Discussion: The suggested training approaches proposed by the commenters have merit, and we agree that consumer training is a key strategy in improving consumer knowledge and utilization of hearing enhancement technology. We do

not, however, wish to limit applicants' ability to propose potential training methods and audiences by requiring a specific focus or approach. The peer review process will determine the merits of each proposal.

Changes: We are revising paragraph (d) of the priority to include general consumer training as one of the required methods of improving consumer knowledge and utilization of hearing enhancement technology.

Comment: One commenter noted that consumer input is not considered sufficiently and suggested that the priority require the involvement of consumer organizations.

Discussion: We agree that consumer involvement should be more explicitly required in the priority.

Changes: We have modified paragraph (d) of the priority to clarify that key stakeholders must include consumers, as well as consumer groups for individuals, who are deaf or hard of hearing.

Comment: One commenter suggested that there is a need to find other kinds of technologies or new ways to enhance older technologies to benefit people with hearing loss.

Discussion: We agree with this suggestion, but believe that the priority as written allows applicants to pursue these options.

Changes: None.

Comment: One commenter wrote in support of the priority, and suggested that the RERC focus its research and development activities on the following areas: (1) video conferencing technologies; (2) remote communication services; (3) individuals who are deaf or hard of hearing and also have other disabilities; and (4) speech recognition and translation technologies.

Discussion: We agree that these are important areas to consider for research and development. Nothing in the priority prohibits an applicant from proposing to focus on one or more of these topics. We do not, however, want to limit applicants' ability to focus on other potential solutions by requiring research and development on specific technologies or topics. The peer review process will determine the merits of each proposal.

Changes: None.

Comment: One commenter suggested that we frame the priority to support technological alternatives that allow improved access through both physiological enhancements via technology (e.g., cochlear implants) and modifications of the environment (e.g., relay telephone services or captioning services). The commenter also recommended that NIDRR revise the priority to recognize the diversity of consumers of hearing technology and to support the rights

of the consumer to select physiological enhancements or environmental modifications.

Discussion: NIDRR agrees that the diversity of consumer needs and preferences should be recognized in the RERC's research and development work. Nothing in the priority prohibits applicants from proposing research and development on physiological enhancements, environmental modifications and related technologies, or both.

Changes: None.

Comment: One commenter suggested that the priority require the RERC to conduct research regarding psycho-social factors, such as stigma influence acceptability, that may affect the utilization of auditory enhancement devices.

Discussion: While we agree that psycho-social factors may be an important consideration in designing auditory enhancement devices, nothing in the priority prohibits an applicant from including this consideration in its proposed approach. We have no evidence to support our making this an absolute requirement of the priority.

Changes: None.

FINAL PRIORITY:

Improving the Accessibility, Usability, and Performance of Technology for Individuals who are Deaf or Hard of Hearing.

The Assistant Secretary for Special Education and Rehabilitative Services establishes a priority for a RERC on Improving the Accessibility, Usability, and Performance of Technology for Individuals who are Deaf or Hard of Hearing. The RERC must focus on innovative technological solutions, new knowledge, and concepts that will improve the lives of individuals who are deaf or hard of hearing.

Under this priority, the RERC must research, develop, and evaluate technologies, methods, and systems that will improve the accessibility, usability, and performance of technologies that benefit individuals who are deaf or hard of hearing. This includes:

- (a) Improving technological and design features (e.g., device fit and comfort, ease of control, affordability) in order to maximize adoption and use of auditory enhancement devices;
- (b) Improving the compatibility of auditory enhancement technologies with other technologies such as mobile devices, telephones, televisions, and other media devices);
- (c) Improving the performance of auditory enhancement devices and other access-promoting technology (e.g., voice to sign computer, smart phone applications, or portable real-time captioning applications) in social environments

(e.g., school, work, recreation, health care, and entertainment); and

(d) Enhancing aural rehabilitation, consumer involvement strategies (e.g., online access to peer and expert input on auditory technologies and communication strategies, consumer focus groups and surveys, and consumer beta testing and review of products), and consumer training to maximize access to auditory information in a variety of settings (e.g., educational, recreational, community, health care, and workplace). The RERC must involve key stakeholders in the design and implementation of RERC activities. These stakeholders must include individuals who are deaf or hard of hearing and consumer groups who represent them.

(e) Increasing the transfer of RERC-developed technologies to the marketplace for widespread testing and use by developing and implementing a plan to ensure that technologies developed by the RERC are made available to the public or to service delivery systems that serve the public. This technology transfer plan must be developed in the first year of the project period in consultation with the NIDRR-funded Center on Knowledge Translation for Technology Transfer.

Types of Priorities:

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the Federal Register. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does not solicit applications. In any year in which we choose to use this priority, we invite applications through a notice in the Federal Register.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this regulatory action is "significant" and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a "significant regulatory action" as an action likely to result in a rule that may--

(1) Have an annual effect on the economy of \$100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities in a material way (also referred to as an "economically significant" rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or



(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This final regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this final regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency--

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account--among other things and to the extent practicable--the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental,

public health and safety, and other advantages;  
distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives--such as user fees or marketable permits--to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency "to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible." The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include "identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes."

We are issuing this final priority only on a reasoned determination that its benefits justify its costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes

that this regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

The benefits of the Disability and Rehabilitation Research Projects and Centers Program have been well established over the years, as projects similar to the one envisioned by the final priority have been completed successfully. The new RERC would generate, disseminate, and promote the use of new information that is intended to improve outcomes for individuals with disabilities in the areas of community living and participation, employment, and health and function.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g.,

braille, large print, audiotape, or compact disc) on request to the program contact person listed under FOR FURTHER INFORMATION CONTACT.

Electronic Access to This Document: The official version of this document is the document published in the Federal Register. Free Internet access to the official edition of the Federal Register and the Code of Federal Regulations is available via the Federal Digital System at: [www.gpo.gov/fdsys](http://www.gpo.gov/fdsys). At this site you can view this document, as well as all other documents of this Department published in the Federal Register, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the Federal Register by using the article search feature at: [www.federalregister.gov](http://www.federalregister.gov). Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: July 3, 2014

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Michael K. Yudin,  
Acting Assistant  
Secretary for  
Special Education and  
Rehabilitative Services.

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